

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**Division of Housing Policy Development**

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December 24, 2004

Mr. Ernest Franco, Interim Director
Planning & Building Services Department
Town of Fairfax
142 Bolinas Road
Fairfax, California 94930

Dear Mr. Franco:

RE: Review of the Town of Fairfax's Revised Draft Housing Element

Thank you for submitting Fairfax's revised draft housing element received for our review on October 25, 2004. The Department of Housing and Community Development (Department) is required to review draft housing elements and report our findings to the locality pursuant to Government Code Section 65585(b). The telephone conversation with you on December 21, 2004 facilitated the review.

Revisions made to the draft element address most of the statutory requirements described in the Department's June 24, 2004 review letter and provide more information on sites available for development. However, additional revisions are still required to comply with State housing element law (Article 10.6 of the Government Code). Specifically, the element should demonstrate how identified sites and zoning and development standards can accommodate the Town's regional housing need for the development of housing for low- and moderate-income households. These and other needed revisions are described in the enclosed Appendix.

We hope our comments are helpful. If you have any questions or would like assistance, please contact Mario Angel, of our staff, at (916) 445-3485. We would be happy to arrange another meeting in either Fairfax or Sacramento or otherwise provide any assistance needed to facilitate your efforts to bring the element into compliance.

In accordance with requests pursuant to the Public Records Act, we are forwarding copies of this letter to the persons and organizations listed below.

Sincerely,

Cathy E. Creswell
Deputy Director

Enclosure

cc: Mark Stivers, Senate Committee on Housing & Community Development
Suzanne Ambrose, Supervising Deputy Attorney General, AG's Office
Terry Roberts, Governor's Office of Planning and Research
Nick Cammarota, California Building Industry Association
Marcia Salkin, California Association of Realtors
Marc Brown, California Rural Legal Assistance Foundation
Rob Weiner, California Coalition for Rural Housing
John Douglas, AICP, Civic Solutions
Deanna Kitamura, Western Center on Law and Poverty
S. Lynn Martinez, Western Center on Law and Poverty
Alexander Abbe, Law Firm of Richards, Watson & Gershon
Michael G. Colantuono, Colantuono, Levin & Rozell, APC
Ilene J. Jacobs, California Rural Legal Assistance, Inc.
Richard Marcantonio, Public Advocates
Paul Campos, Home Builders Assoc. of Northern California
Shannon Dodge, Non-Profit Housing Association of Northern California
Eve Bach, Arc Ecology
Allison Brooks, Livable Communities Initiative
Charlie Carson, Home Builders Association – Northern Division
Betty Pagett, Marin Housing Council
David M. Booher, California Housing Council
Mark Reisenfeld, Marin County
Marin County Housing Authority
Rory Anne Walsh, City of Mill Valley
Reba Wright-Quastler, City of Sausalito
Scott Anderson, Tiburon Community Development
Bob Brown, San Rafael Planning Department
Diane Henderson, Belvedere City Planning Department
Robert Pendoley, Corte Madera Planning Department
Lisa Montali, Ecumenical Association for Housing
Northbay Family Housing
Margaret Jones, League of Women Voters of Marin County
Sue Hestor, Attorney-at-Law
Fred Grange, Kerner Blvd. LLC

APPENDIX

Town of Fairfax

The following changes would bring Fairfax's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element information is available on our website: www.hcd.ca.gov/hpd which may be of assistance. Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. The Housing Elements section contains the Department's publication, *Housing Element Questions and Answers (Qs & As)* and the Government Code addressing State housing element law.

A. Housing Needs, Resources, and Constraints

Analyze potential and actual governmental constraints upon the development of housing for all income levels and for persons with disabilities, including land use controls required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to paragraph(6) (Section 65583(a)(4)).

Constraints on Housing for Persons with Disabilities: The element was revised to note how the Town may consider the removal of public hearing requirements for the building of ramps and other alterations. However, the element was not revised to demonstrate how the City's process for "request for special accommodations" provides reasonable accommodations to existing zoning and land use controls. The element should also describe the City's approval procedures for group homes for more than six persons. In addition, the element should describe the results of reviewing the zoning code to determine whether the definition of family improperly distinguishes between related and unrelated persons and imposes numerical limitations on the number of persons that may constitute a family.

B. Housing Programs

1. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

In response to our previous review, revisions to the element include additional general information about Commercial Highway (CH) and Limited Commercial (CL) designations. However, the element still does not include sufficient information about

how the accumulated impact of the Town's land-use controls (i.e. set backs, height restrictions and densities) on specified sites in the CH and CL zones encourage and facilitate the development of housing for low- and moderate-income households.

While the element includes a program (Program H 4.C) to increase the maximum density to 14 units per acre, the element does not demonstrate the adequacy of this density to facilitate the development of low- and moderate-income housing. The element should either demonstrate how the Town's existing and proposed development standards for the CH and CL zones can accommodate the housing needs of low- and moderate-income households or revise the program to provide sufficient development standards and adequate densities.

2. *The housing element shall contain programs which "address and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing" (Section 65583(c)(3)).*

Absent a complete constraints analysis (comment A), the adequacy of programs to remove or mitigate constraints cannot be determined.

3. *Describe the Town's diligent effort to achieve public participation of all economic segments of the community in the development of the housing element (Section 65583(c)).*

The Town's correspondence of October 22, 2004 (page 6) indicates public participation will be sought during the implementation of programs and include formation of a Community Housing Advocacy Group and that special groups will be contacted for input. While this effort is commendable, the adopted element must describe how interested persons and parties, particularly those who had previously provided verbal and/or written comments, were and will be provided the opportunity to participate in the development and adoption of the housing element. Please refer to our June 24, 2004 review letter.